

Small Business Administration

§ 120.982

collected from the CSA when the payments are made.

(4) *Late fees.* Loan payments received after the 15th of each month may be subject to a late payment fee of 5 percent of the late payment or \$100, whichever is greater. These fees will be collected by the CSA on behalf of the CDC; and

(5) *Assumption fee.* Upon SBA's written approval, a CDC may charge an assumption fee not to exceed 1 percent of the outstanding principal balance of the loan being assumed.

(b) *CSA fees.* The CSA may charge an initiation fee on each loan and a monthly servicing fee under the terms of the Master Servicing Agreement.

(c) *Other agent fees.* Agent fees and charges necessary to market and service Debentures and Certificates may be assessed to the Borrower or the investor. The fees must be approved by SBA and published periodically in the FEDERAL REGISTER.

(d) *SBA fees.* (1) SBA charges a 0.5 percent guarantee fee on the Debenture.

(2) For loans approved by SBA after September 30, 1996, SBA charges a fee of not more than 0.9375 percent annually on the unpaid principal balance of the loan as determined at five-year anniversary intervals.

(e) *Miscellaneous fees.* A funding fee not to exceed 0.25 percent of the Debenture may be charged to cover costs incurred by the trustee, fiscal agent, transfer agent.

[61 FR 3235, Jan. 31, 1996, as amended at 64 FR 2119, Jan. 13, 1999]

§ 120.972 Third Party Lender participation fee and Development Company fee.

(a) *Participation fee.* For loans approved by SBA after September 30, 1996, SBA must collect a one-time fee from the Third Party Lender equal to 50 basis points on its total participation in a Project when the Third Party Lender occupies a senior credit position to SBA in the project.

(b) *Development company fee.* For loans approved by SBA after September 30, 1996, SBA must collect an annual fee from the CDC equal to 0.125 percent of the outstanding principal balance of the debenture. The fee must

be paid from the servicing fees collected by the CDC and cannot be paid from any additional fees imposed on the Borrowers.

[64 FR 2119, Jan. 13, 1999]

§ 120.973 Oversight and evaluation of CDCs and ADCs.

SBA may conduct an operational review of a CDC or ADC. The SBA Office of Inspector General may conduct, supervise or coordinate audits pursuant to the Inspector General Act. The CDC or ADC must cooperate and make its staff, records, and facilities available.

[61 FR 3235, Jan. 31, 1996. Redesignated at 64 FR 2119, Jan. 13, 1999]

CDC TRANSFER, SUSPENSION AND REVOCATION

§ 120.980 Transfer of CDC to ADC status.

SBA shall transfer to ADC status any CDC that fails to meet the activity level required by SBA, on average over two consecutive fiscal years. SBA shall notify the CDC in writing of the action and of the opportunity for a hearing pursuant to part 134 of this chapter at least 10 business days prior to the transfer. During the pendency of a hearing, SBA's action will remain in effect.

§ 120.981 Voluntary transfer and surrender of CDC certification.

A CDC may not transfer its certification or withdraw from the 504 program without SBA's consent. The CDC must provide a plan to SBA to transfer its portfolio. The portfolio may only be transferred with SBA's written consent. If a CDC desires to withdraw from the 504 program, it must forfeit its portfolio to SBA. SBA may conduct an audit of the transferring or withdrawing CDC.

§ 120.982 Correcting CDC servicing deficiencies.

SBA may require corrective action, including the transfer of existing or pending financings to another CDC in good standing. SBA must notify the CDC in writing of any servicing, reporting or collection deficiencies and